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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/018,510	<b>Applicant(s)</b> SUGAYA, SYUNJI
	<b>Examiner</b> NAMRATA BOVEJA	<b>Art Unit</b> 3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 12 March 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-54 is/are pending in the application.

4a) Of the above claim(s) 1-3,8,9,18-21,26,27,37-39,44,45,51 and 52 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 4-7,10-17,22-25,28-36,40-43,46-50,53 and 54 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 12/14/01 is/are: a) accepted or b) objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No./Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No./Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. This office action is in response to communication filed on 03/12/2008.
2. Claims 1-3, 8, 9, 18-21, 26, 27, 37-39, 44, 45, 51, and 52 have been cancelled. Claims 4-7, 10-17, 22-25, 28-36, 40-43, 46-50, 53, and 54 are presented for examination.
3. Amendments to claims 4-7, 10-12, 15-17, 22-25, 28-30, 33-35, 40-43, 46-48, and 53 have been entered and considered.

**Claim Rejections - 35 USC § 112**

The second paragraph of 35 U.S.C. 112 is directed to requirements for the claims:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention. There are two separate requirements set forth in this paragraph:  
(A) the claims must set forth the subject matter that applicants regard as their invention; and  
(B) the claims must particularly point out and distinctly define the metes and bounds of the subject matter that will be protected by the patent grant.

4. Claims 17, 35, and 53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

*Claims 17, 35, and 53 teach “data transfer speed while downloading is adjusted.” It is unclear what the Applicant means by the limitation of data transfer speed while downloading is adjusted. Applicant's specification on page 24 lines 14-21 as pointed out by the Applicant states adjusting the download speed of a plurality of files. However, this is not what is recited in claims 17, 35, and 53. In light of the Applicant specification, it is interpreted to mean that the data transfer speed is adjusted. Appropriate clarification is required.*

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 17, 35, 36, 53, and 54 are rejected under 102(e) as being anticipated by Servan-Schreiber et al (Patent Number 6,892,354 hereinafter Servan-Schreiber).

**Disclaimer:** Claim 17 was found to be deficient under U.S.C. 112 second. To the extent the claimed invention was understood, the following art was applied.

In reference to claim 17, Servan-Schreiber teaches an advertisement presentation system according to comprising: a network (abstract, col. 4 lines 14-19, and col. 5 lines 1-2, Figure 1); a server connected to the network (abstract, col. 1 lines 58-63, col. 2 lines 1-10, col. 3 lines 6-21, and col. 5 lines 21-31); and user side equipment for presenting advertisements to a user while transferring data with said server via said network (abstract, col. 2 lines 1-10 and 39-48, and col. 2 lines 66 to col. 3 lines 21); wherein *download* speed of *data* is adjusted based on the state of presentation of said advertisement while data is transferred

between said server and said user side equipment via said network (col. 3 lines 30-67 and col. 4 lines 1-13).

6. In reference to claim 35, Servan-Schreiber teaches a computer program product in a computer readable medium for presenting advertisements, the computer program product comprising: first instructions for transferring data to or from a server via a network (abstract and col. 1 lines 47-57); second instructions for presenting advertisements on a user side equipment to a user while transferring data (col. 1 lines 58-63 and col. 2 lines 6-10); third instructions for *data transfer speed* based on the state of presentation of said advertisement while data is transferred between said server and said user side equipment via said network (col. 3 lines 30-67 and col. 4 lines 1-13).

7. In reference to claim 36, Servan-Schreiber teaches a computer program further comprising: fifth instructions for finishing data transfer at the same time as or after presentation of said advertisement is completed (col. 3 lines 30-67 and col. 4 lines 1-13).

8. In reference to claim 53, Servan-Schreiber teaches a method of presenting advertisements comprising steps of: a first step for transferring data to or from a server via a network (col. 1 lines 58-63, col. 2 lines 1-5 and 49-65, col. 3 lines 10-16, and Figure 1); a second step for presenting advertisements on a user side equipment to a user while transferring data (abstract, col. 2 lines 1-10 and 39-48, and col. 2 lines 66 to col. 3 lines 21), and a third step for adjusting *data transfer speed* based on the state of presentation of said advertisement

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while data is transferred between said server and said user side equipment via said network (col. 3 lines 30-67 and col. 4 lines 1-13).

9. In reference to claim 54, Servan-Schreiber teaches a method further comprising a fourth step for finishing data transfer at the same time as or after presentation of said advertisement is completed (col. 3 lines 30-67 and col. 4 lines 1-13).

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. *Claims 4-6, 10, 22-24, 28, 40, 42,46 are rejected under U.S.C. 103(a) as being unpatentable over Servan-Schreiber (Patent Number 6,892,354 hereinafter Servan-Schreiber) in view of Boe et al. (Patent Number 6,236,975 hereinafter Boe).*

*In reference to claim 4, Servan-Schreiber teaches an advertisement presentation system according to comprising: a network (abstract, col. 4 lines 14-19, and col. 5 lines 1-2, Figure 1); a server connected to the network (abstract, col. 1 lines 58-63, col. 2 lines 1-10, col. 3 lines 6-21, and col. 5 lines 21-31); and user side equipment for presenting advertisements to a user while transferring data with said server via said network (abstract, col. 2 lines 1-10 and 39-48, and col. 2 lines 66 to col. 3 lines 21). Servan-Schreiber also teaches using statistical*

*profiles of users and what items the users search for in the search engines to determine which advertising pages are downloaded for the user (col. 4 lines 50-60).*

*Servan-Schreiber is silent about specifically storing personal history information comprising reply history information for questions. Boe teaches storing personal history information comprising reply history information for questions (col. 6 lines 47 to col. 7 lines 8). It would have been obvious for Servan-Schreiber to include in personal history information, reply history information for questions to provide more useful and targeted advertisements to users.*

11. *In reference to claims 5 and 41, Servan-Schreiber teaches an advertisement presentation system and method according to comprising: a network (abstract, col. 4 lines 14-19, and col. 5 lines 1-2, Figure 1); a server connected to the network (abstract, col. 1 lines 58-63, col. 2 lines 1-10, col. 3 lines 6-21, and col. 5 lines 21-31); and user side equipment for presenting advertisements to a user while transferring data with said server via said network (abstract, col. 2 lines 1-10 and 39-48, and col. 2 lines 66 to col. 3 lines 21); and a selection section for selecting one or a plurality of advertisements to present to the user from among a plurality of advertisements based on said personal history information (col.4 lines 50-60).*

*Servan-Schreiber does not teach the personal history information comprises reply history information for questions. Boe teaches the personal history information comprises reply history information for questions (col. 6 lines*

*47 to col. 7 lines 8). It would have been obvious for Servan-Schreiber to include in personal history information, reply history information for questions to provide more useful and targeted advertisements to users.*

12. In reference to claim 10, Servan-Schreiber teaches an advertisement presentation system wherein said user side equipment downloads data (i.e. the contents of an advertisement) and software (i.e. it is inherent that you need a web browser to display the webpage advertisement, and if you don't have a browser, it will need to be downloaded to view the advertisement) required to use this data from said server via said network (col. 2 lines 1-5, col. 3 lines 6-16 and 35-43, col. 4 lines 1-6 and 24-31, and Figures 2 and 7).

13. *In reference to claim 22, Servan-Schreiber teaches a computer program product in a computer readable medium for presenting advertisements, the computer program product comprising: first instructions for transferring data to or from a server via a network (abstract and col. 1 lines 47-57); second instructions for presenting advertisements on a user side equipment to a user while transferring data (col. 1 lines 58-63 and col. 2 lines 6-10). Servan-Schreiber also teaches using statistical profiles of users and what items the users search for in the search engines to determine which advertising pages are downloaded for the user (col. 4 lines 50-60).*

*Servan-Schreiber is silent about including third instructions for storing personal history information regarding a user of said user side equipment, wherein said personal history information comprises reply history information for questions. Boe teaches storing personal history information regarding a user of*

*said user side equipment (col. 6 lines 47 to col. 7 lines 8), wherein said personal history information comprises reply history information for questions (col. 6 lines 47 to col. 7 lines 8). It would have been obvious for Servan-Schreiber to include third instructions for storing personal history information and to include in personal history information, reply history information for questions to provide more useful and targeted advertisements to users.*

14. In reference to claim 23, Servan-Schreiber teaches a computer program product in a computer readable medium for presenting advertisements, the computer program product comprising: first instructions for transferring data to or from a server via a network (abstract and col. 1 lines 47-57); second instructions for presenting advertisements on a user side equipment to a user while transferring data (col. 1 lines 58-63 and col. 2 lines 6-10); and third instructions for selecting one or a plurality of advertisements to present to the user from among a plurality of advertisements based on said personal history information (col.4 lines 50-60.) Servan-Schreiber does not teach the personal history information comprises reply history information for questions. Boe teaches the personal history information comprises reply history information for questions (col. 6 lines 47 to col. 7 lines 8). It would have been obvious for Servan-Schreiber to include in personal history information, reply history information for questions to provide more useful and targeted advertisements to users.

15. *In reference to claims 6 and 24 Servan-Schreiber does not teach a system and program wherein said personal history information contains the user's personal characteristics information, which comprises at least one of name, age,*

*gender, address, occupation, and family structure of the user. Boe teaches a system and program wherein said personal history information contains the user's personal characteristics information, which comprises at least one of name, age, gender, address, occupation, and family structure of the use (col. 3 lines 24-35). It would have been obvious for Servan-Schreiber to include in personal history information user characteristics information to better identify the user and to be able to better target the user for advertisements.*

16. In reference to claim 28, Servan-Schreiber teaches a computer program product *further comprising fourth* instructions for downloading data (i.e. the contents of an advertisement) and software (i.e. it is inherent that you need a web browser to display the webpage advertisement, and if you don't have a browser, it will need to be downloaded to view the advertisement) required to use this data from said server via said network (col. 2 lines 1-5, col. 3 lines 6-16 and 35-43, col. 4 lines 1-6 and 24-31, and Figures 2 and 7).

17. In reference to claim 40, Servan-Schreiber teaches a method of presenting advertisements comprising steps of: a first step for transferring data to or from a server via a network (col. 1 lines 58-63, col. 2 lines 1-5 and 49-65, col. 3 lines 10-16, and Figure 1); a second step for presenting advertisements on a user side equipment to a user while transferring data (abstract, col. 2 lines 1-10 and 39-48, and col. 2 lines 66 to col. 3 lines 21). Servan-Schreiber is silent about the third step for storing personal history information, *wherein said personal history information comprises reply history information for questions. Boe teaches the personal history information comprises reply history information for*

*questions (col. 6 lines 47 to col. 7 lines 8). It would have been obvious for Servan-Schreiber to include in personal history information, reply history information for questions to provide more useful and targeted advertisements to users.*

18. In reference to claim 42, Servan-Schreiber teaches a method of presenting advertisements *wherein* said personal history information *contains advertisements presented to the user (i.e. advertisement access history)* (col. 4 lines 48-60).

19. In reference to claim 46, Servan-Schreiber teaches a *method of presenting advertisements, comprising steps of:* third instructions for downloading data (i.e. the contents of an advertisement) and software (i.e. it is inherent that you need a web browser to display the webpage advertisement, and if you don't have a browser, it will need to be downloaded to view the advertisement) required to use this data from said server via said network (col. 2 lines 1-5, col. 3 lines 6-16 and 35-43, col. 4 lines 1-6 and 24-31, and Figures 2 and 7); and fourth instructions for downloading data (i.e. the contents of an advertisement) and software (i.e. it is inherent that you need a web browser to display the webpage advertisement, and if you don't have a browser, it will need to be downloaded to view the advertisement) required to use this data from said server via said network (col. 2 lines 1-5, col. 3 lines 6-16 and 35-43, col. 4 lines 1-6 and 24-31, and Figures 2 and 7).

20. Claims 7, 25, 29, 43, and 47 are rejected under U.S.C. 103(a) as being unpatentable over Servan-Schreiber in view of *Boe and further in view of Official*

Notice.

In reference to claim 7, Servan-Schreiber does not teach an *advertisement presentation system comprising a selection section* for selecting one or a plurality of advertisements to present to a user from among a plurality of advertisements based on the environment (i.e. drivers and software installed) of said user side equipment.

Official Notice is taken that is old and well known to present content in different formats based on the user's environment. For example, if the user's computer does not have the software that supports the viewing of a Flash or video presentation, a user may be provided the option to view the information in text or audio format or download the Flash software. As an another example, if the user is using a different version of the Microsoft Word software on his computer, he might be asked to convert a Word file he received in an e-mail in order to be able to view it with the version of Word that is installed on his machine, and this conversion may cause the document to look slightly different on his machine if for example he does not have the same fonts installed on his computer. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to include presenting content in different formats based on the user's environment to enable advertisers to reach a broad base of target users regardless of the type of computer system the users may be using.

21. In reference to claim 11, Servan-Schreiber teaches an advertisement presentation system *wherein* said user side equipment presents the

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advertisements to the user while downloading data to said server via said network and during idle and wait time (col. 1 lines 47-63, col. 2 lines 1-10 and 49-65, col. 3 lines 22-43, and Figure 5A). Servan-Schreiber does not specifically recite presenting advertisements while uploading data to said server via said network, even though uploading also leads to an idle and wait time.

Official Notice is taken that is old and well known to present advertising content while uploading data to a server via a network to make an effective use of wait time as done by e-mail providers such as Juno when users are waiting to upload file attachments to their e-mail messages to help keep the e-mail service free of charge to the users and to give users something to look at while waiting on their computers for the upload to be completed. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to include presenting advertisements during uploading of data to provide the users with targeted advertising for viewing while waiting for the upload to be completed.

22. In reference to claim 25, Servan-Schreiber teaches a computer program product *wherein in the third instructions, one or a plurality of advertisements is selected based on said personal history information* (col.4 lines 50-60). Servan-Schreiber does not teach third instructions for selecting one or a plurality of advertisements to present to a user from among a plurality of advertisements based on the environment (i.e. drivers and software installed) of said user side equipment.

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Official Notice is taken that is old and well known to present content in different formats based on the user's environment. For example, if the user's computer does not have the software that supports the viewing of a Flash or video presentation, a user may be provided the option to view the information in text or audio format or download the Flash software. As an another example, if the user is using a different version of the Microsoft Word software on his computer, he might be asked to convert a Word file he received in an e-mail in order to be able to view it with the version of Word that is installed on his machine, and this conversion may cause the document to look slightly different on his machine if for example he does not have the same fonts installed on his computer. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to include presenting content in different formats based on the user's environment to enable advertisers to reach a broad base of target users regardless of the type of computer system the users may be using.

23. In reference to claim 29, Servan-Schreiber does not specifically recite *fourth* instructions for presenting advertisements while uploading data to said server via said network, even though uploading also leads to an idle and wait time.

Official Notice is taken that is old and well known to present advertising content while uploading data to a server via a network to make an effective use of wait time as done by e-mail providers such as Juno when users are waiting to upload file attachments to their e-mail messages to help keep the e-mail service

free of charge to the users and to give users something to look at while waiting on their computers for the upload to be completed. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to include presenting advertisements during uploading of data to provide the users with targeted advertising for viewing while waiting for the upload to be completed.

24. *In reference to claim 43, Servan-Schreiber teaches a method of presenting advertisements comprising steps of: a second step for presenting advertisements on user equipment to a user while transferring data (abstract, col. 2 lines 1-10 and 39-48, and col. 2 lines 66 to col. 3 lines 21). Servan-Schreiber does not teach a third step of selecting one or a plurality of advertisements to present to a user from among a plurality of advertisements based on the environment (i.e. drivers and software installed) of said user side equipment.*

*Official Notice is taken that is old and well known to present content in different formats based on the user's environment. For example, if the user's computer does not have the software that supports the viewing of a Flash or video presentation, a user may be provided the option to view the information in text or audio format or download the Flash software. As an another example, if the user is using a different version of the Microsoft Word software on his computer, he might be asked to convert a Word file he received in an e-mail in order to be able to view it with the version of Word that is installed on his machine, and this conversion may cause the document to look slightly different on his machine if for example he does not have the same fonts installed on his*

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*computer. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to include presenting content in different formats based on the user's environment to enable advertisers to reach a broad base of target users regardless of the type of computer system the users may be using.*

25. In reference to claim 47, Servan-Schreiber *does not* teach a method of presenting advertisements comprising a *fourth* step of presenting advertisements while uploading data to said server via said network, even though uploading also leads to an idle and wait time.

Official Notice is taken that is old and well known to present advertising content while uploading data to a server via a network to make an effective use of wait time as done by e-mail providers such as Juno when users are waiting to upload file attachments to their e-mail messages to help keep the e-mail service free of charge to the users and to give users something to look at while waiting on their computers for the upload to be completed. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to include presenting advertisements during uploading of data to provide the users with targeted advertising for viewing while waiting for the upload to be completed.

26. *Claims 12-16, 30-34, and 48-50 are rejected under U.S.C. 103(a) as being unpatentable over Servan-Schreiber in view of Official Notice.*

In reference to claim 12, Servan-Schreiber teaches an advertisement presentation system according to comprising: a network (abstract, col. 4 lines 14-

19, and col. 5 lines 1-2, Figure 1); a server connected to the network (abstract, col. 1 lines 58-63, col. 2 lines 1-10, col. 3 lines 6-21, and col. 5 lines 21-31); and user side equipment for presenting advertisements constituted from interactive steps including one or a plurality of questions (note, no structure is being claimed in the underlined portion for performing this step, and this part of the claim is being treated as intended use and not being given any patentable weight) while transferring data with said server via said network (abstract, col. 2 lines 1-10 and 39-48, and col. 2 lines 66 to col. 3 lines 21). Servan-Schreiber also teaches a system for requesting said user to input information interactively (i.e. user clicks on or manually enters a hyperlink request) when data is transferred between said server and said user side equipment via said network (abstract, col. 2 lines 49-65, and Figure 2). Servan-Schreiber is silent about *inputting responses to questions and including a step for storing responses input by said input request section.*

Official Notice is taken that it is old and well known to *request users to input responses to questions and to store response input information in the field of e-commerce*. For example, when a user has an online account with a vendor, the vendor can *ask the user which credit card (visa or master card for example) the user would like to use for the purchase and also offer to store the user's credit card information associated with the online account so that the user does not have to re-type in that information each time when the user is making an online transaction*. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to include *requesting users*

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*to input responses to questions and storing of response input information (i.e. manually typing in something) to provide flexible payment options and to help users save time by automatically filling in this information on any required forms online.*

27. In reference to claims 13 and 14, Servan-Schreiber does not teach a system for accessing and retrieving responses stored in said response storage section.

Official Notice is taken that it is old and well known to access and retrieve responses stored in a response storage section in the field of advertising. For example, personal data collected from surveys is stored in a database and is accessed and retrieved for sending e-marketing communication messages such as e-mail blasts targeted to different customer segments such as contractors, distributors, and original equipment manufacturers. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to include access and retrieval of response input information to target advertisements more effectively for users of the services and products.

28. In reference to claim 15, Servan-Schreiber does not teach the system for executing sales of products or services to a user while data is transferred to or from said server via said network.

Official Notice is taken that it is old and well known to execute sales of products or services to a user while data is transferred to or from a server via a network. For example, if a user opens up two Internet browser windows, he could be making an online purchase using a credit card and transferring this

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credit card information to the merchant in one window, and he could be viewing a product advertisement in another window simultaneously while waiting for the credit card transaction to go through. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to execute sales of products or services to a user while data is transferred to or from a server via a network to utilize the user's time more effectively by enabling data transfer and sales execution to take place simultaneously in two different browser windows.

29. In reference to claim 16, Servan-Schreiber teaches an advertisement presentation system according to comprising: a network (abstract, col. 4 lines 14-19, and col. 5 lines 1-2, Figure 1); a server connected to the network (abstract, col. 1 lines 58-63, col. 2 lines 1-10, col. 3 lines 6-21, and col. 5 lines 21-31); and user side equipment for presenting advertisements to a user while transferring data with said server via said network (abstract, col. 2 lines 1-10 and 39-48, and col. 2 lines 66 to col. 3 lines 21). Servan-Schreiber does not teach a system with a processing section for defragmenting or deleting unnecessary files from said user side equipment while data is transferred to or from said server via said network.

Official Notice is taken that it is old and well known to *defragment and delete unnecessary files* on the user side equipment while data is transferred to or from a server via a network. For example, many companies *use programs such as Adaware etc to delete unnecessary spyware files and to optimize space on the hard drive*. Therefore, it would have been obvious to a person of ordinary

skill in the art at the time of the applicant's invention to *defragment and delete unnecessary files on the user side equipment while data is transferred to or from a server via a network to prevent spyware from being installed on the user side equipment.*

30. In reference to claim 30, Servan-Schreiber teaches a computer program product in a computer readable medium for presenting advertisements, the computer program product comprising: first instructions for transferring data to or from a server via a network (abstract and col. 1 lines 47-57); second instructions for presenting advertisements constituted from interactive steps including one or a plurality of questions (note, no structure is being claimed in the underlined portion for performing this step, and this part of the claim is being treated as intended use and not being given any patentable weight) on a user side equipment to a user while transferring data while transferring data (abstract, col. 2 lines 1-10 and 39-48, and col. 2 lines 66 to col. 3 lines 21). Servan-Schreiber also teaches third instructions for requesting said user to input information interactively (i.e. user clicks on or manually enters a hyperlink request) when data is transferred between said server and said user side equipment via said network (abstract, col. 2 lines 49-65, and Figure 2). Servan-Schreiber is silent about *inputting responses to questions and including a step for storing responses input by said input request section.*

Official Notice is taken that it is old and well known to *request users to input responses to questions and to store response input information in the field of e-commerce.* For example, when a user has an online account with a vendor,

the vendor can ask the user which credit card (visa or master card for example) the user would like to use for the purchase and also offer to store the user's credit card information associated with the online account so that the user does not have to re-type in that information each time when the user is making an online transaction. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to include *requesting users to input responses to questions and storing of response input information* (i.e. manually typing in something) to *provide flexible payment options and to help users save time by automatically filling in this information on any required forms online.*

31. In reference to claims 31 and 32, Servan-Schreiber does not teach the computer program product comprising fifth instructions for accessing and retrieving responses stored in said response storage section.

Official Notice is taken that it is old and well known to access and retrieve responses stored in a response storage section in the field of advertising. For example, personal data collected from surveys is stored in a database and is accessed and retrieved for sending e-marketing communication messages such as e-mail blasts targeted to different customer segments such as contractors, distributors, and original equipment manufacturers. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to include access and retrieval of response input information to target advertisements more effectively for users of the services and products.

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32. In reference to claim 33, Servan-Schreiber *does not teach* computer program product comprising: fourth instructions for executing sales of products or services to said user while data is transferred to or from said server via said network.

Official Notice is taken that it is old and well known to execute sales of products or services to said user while data is transferred to or from a server via a network. For example, if a user opens up two Internet browser windows, he could be making an online purchase using a credit card and transferring this credit card information to the merchant in one window, and he could be viewing a product advertisement in another window simultaneously while waiting for the credit card transaction to go through. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to execute sales of products or services to said user while data is transferred to or from a server via a network to utilize the user's time more effectively by enabling data transfer and sales execution to take place simultaneously in two different browser windows.

33. In reference to claim 34, Servan-Schreiber teaches a computer program product in a computer readable medium for presenting advertisements, the computer program product comprising: first instructions for transferring data to or from a server via a network (abstract and col. 1 lines 47-57); second instructions for presenting advertisements on a user side equipment to a user while transferring data (col. 1 lines 58-63 and col. 2 lines 6-10). Servan-Schreiber does not teach third instructions for defragmenting or deleting unnecessary files

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from said user side equipment while data is transferred to or from said server via said network.

Official Notice is taken that it is old and well known to *defragment and delete unnecessary files* on the user side equipment while data is transferred to or from a server via a network. For example, many companies *use programs such as Adaware etc to delete unnecessary spyware files and to optimize space on the hard drive*. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to include a processing section to *defragment and delete unnecessary files on the user side equipment while data is transferred to or from a server via a network to prevent spyware from being installed on the user side equipment*.

34. In reference to claim 48, Servan-Schreiber teaches a method of presenting advertisements comprising steps of: a first step for transferring data to or from a server via a network (col. 1 lines 58-63, col. 2 lines 1-5 and 49-65, col. 3 lines 10-16, and Figure 1); a second step for presenting advertisements constituted from interactive steps including one or a plurality of questions (note, *no structure is being claimed in the underlined portion for performing this step, and this part of the claim is being treated as intended use and not being given any patentable weight*) while transferring data with said server via said network on a user side equipment to a user while transferring data (abstract, col. 2 lines 1-10 and 39-48, and col. 2 lines 66 to col. 3 lines 21); a third step for requesting said user to input information interactively (i.e. user clicks on or manually enters a hyperlink request) when data is transferred between said server and said user

side equipment via said network (abstract, col. 2 lines 49-65, and Figure 2).

Servan-Schreiber is silent about *inputting responses to questions and including a fourth step for storing responses input by said input request section.*

Official Notice is taken that it is old and well known to *request users to input responses to questions and to store response input information in the field of e-commerce.* For example, when a user has an online account with a vendor, the vendor can *ask the user which credit card (visa or master card for example) the user would like to use for the purchase and also offer to store the user's credit card information associated with the online account so that the user does not have to re-type in that information each type when the user is making an online transaction.* Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to include *requesting users to input responses to questions and storing of response input information (i.e. manually typing in something) to provide flexible payment options and to help users save time by automatically filling in this information on any required forms online.*

35. In reference to claims 49 and 50, Servan-Schreiber does not teach the method further comprising a fifth step for accessing and retrieving responses stored in said response storage section.

Official Notice is taken that it is old and well known to access and retrieve responses stored in a response storage section in the field of advertising. For example, personal data collected from surveys is stored in a database and is accessed and retrieved for sending e-marketing communication messages such

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as e-mail blasts targeted to different customer segments such as contractors, distributors, and original equipment manufacturers. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to include access and retrieval of response input information to target advertisements more effectively for users of the services and products.

**Response to Arguments**

36. After careful review of Applicant's remarks/arguments filed on 03/12/2008, the Examiner fully considered the arguments, but they are moot in view of the new ground(s) of rejection. Amendments to claims 4-7, 10-12, 15-17, 22-25, 28-30, 33-35, 40-43, 46-48, and 53 have been entered and considered.

37. In reference to claims 17, 35, and 53, the Applicant's amendment still does not address the issue pertaining to the 35 USC § 112 rejection that was held in the previous Office Action. Claims 17, 35, and 53 teach "data transfer speed while downloading is adjusted." It is unclear what the Applicant means by the limitation of data transfer speed while downloading is adjusted. Applicant's specification on page 24 lines 14-21 as pointed out by the Applicant states adjusting the download speed of a plurality of files. However, this is not what is recited in claims 17, 35, and 53. In light of the Applicant specification, it is interpreted to mean that the data transfer speed is adjusted. Examiner has amended and maintained the 35 USC § 112 rejection in light of the Applicant's amendment.

38. In reference to claim 17, Applicant argues that Servan does not adjust the data transfer speed of downloading. As interpreted in view of the 35 USC § 112

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rejection above, this is interpreted to mean that the data transfer speed is adjusted, and Servan does indeed teach this limitation (i.e. an advertising page is displayed for a minimum time period or until a new page is sufficiently downloaded) (col. 3 lines 22 to col. 4 lines 41). Furthermore, Applicant argues that Servan repeats displaying the same advertisement. With regards to this, Applicant is arguing something he has not claimed. Additionally, Servan does indeed teach displaying different advertisements (col. 4 lines 38-41).

39. In reference to claims 4 and 22, Applicant states that Servan and Gough don't teach all the limitations, but the Applicant has not pointed to anything specifically that the references do not teach. So, the Examiner is not sure what the Applicant is trying to argue here, since the Applicant did not present any substantive arguments.

40. In reference to claims 41 and 43, Applicant correctly notes that there was no rejection for these claims, however this was an oversight by the Examiner, and the subject matter contained in claims 41 and 43 had been sufficiently addressed previously in claims 5 and 7, since the claims address the same limitations. Furthermore, Applicant has now amended these claims, and therefore a final rejection for these claims is appropriate for this reason as well.

41. In reference to claims 7 and 25, Applicant argues that if information is presented in text or audio format the advertisements are not sufficiently effective, because the information will be displayed in a broken format. The Examiner respectfully disagrees with the Applicant, since just because you receive a text advertisement versus one with text and advertisements doesn't necessarily mean

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the text ad is not sufficiently effective or doesn't convey the information in its entirety. For example, when a user requests directions in MapQuest that are just text versus text plus a map, the text only directions are complete and effective even without the map. Applicants also argues that if the user tries to install Flash software, the user has to access the Macromedia Web site and download the software, and this would be done manually and take time. Again, the Examiner respectfully disagrees with the Applicant, since the user may not have to go to a website to receive the software upgrade. A pop-up may be presented to the user stating that a software upgrade is required and available, and the user just has to click okay, and the upgrade can then take place automatically by the computer without having the user go to a website to download an upgrade. Additionally, the Applicant argues that if a version of Word installed on a user's computer is old and the information he is trying to view is in a later Word format, a conversion operation can't be used. While the Applicant may be correct in this assertion, the Applicant is arguing something he has not claimed. Specifically, the Applicant has not claimed a limitation such that a conversion operation can be used for converting a newer file to an older version for viewing using the older software on the user's computer.

42. In reference to claim 15, Applicant argues that the example using two internet browser windows is a manual operation conducted by the user himself and is confusing and takes time. With respect to this, none of these arguments have been claimed as limitations by the Applicant, so the Applicant is simply arguing what he has not even claimed. The Examiner maintains the rejection,

which sufficiently addressed all the limitations of claim 15. However, for clarification purposes, another example is also a screen with advertisements that can for example be shown to a user while a user transaction, i.e. a ticket purchase, is being processed on Orbitz.com. This example will not require the use of two windows or any commands by the user.

43. In reference to the 35 USC § 103 (a) rejections, Applicant states that "the incantation of "Official Notice" is not sufficient to shift the Office's burden of making a *prima facie* rejection with regard to substantially all subject matter in 18 of the 32 pending claims. The Office Action misapplies Official Notice, by attempting to place on Applicant the nearly insurmountable burden of proving the negative, i.e., disproving the hypothetical scenarios which the Office Action presents in support of its rejections." This statement in itself does not create any doubt about the rejections. The statement without reference to any claims and without any rebuttal by the Applicant, does not constitute a proper challenge to the Official Notice, since the Applicant has not said anything regarding that the Applicant was not aware that the claimed elements were well known before the filing of his application and before his invention was developed. Per the Applicant's citing of MPEP 2144.03, "A reasonable challenge constitutes a demand for evidence be made as soon as practicable during prosecution. Thus the applicant is charged with rebutting the well known statement in the next reply after the Office Action in which the well known statement was made." The Applicant has not submitted any rebuttal of the well-known statements. In the paragraph in MPEP 2144.03 immediately preceding the above citing, reference is

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made to *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420-421 (CCPA 1970) that "Furthermore, the applicant must be given the opportunity to challenge the correctness of such assertions and allegations." Again, the Applicant has not challenged the correctness of the assertions but rather only the use of Official Notice itself. Bald statements such as "the incantation of "Official Notice" is not sufficient to shift the Office's burden of making a *prima facie* rejection with regard to substantially all subject matter in 18 of the 32 pending claims. The Office Action misapplies Official Notice, by attempting to place on Applicant the nearly insurmountable burden of proving the negative, i.e., disproving the hypothetical scenarios which the Office Action presents in support of its rejections," are not adequate and do not shift the burden to the examiner to provide evidence in support of the Official Notice. Allowing such statements to challenge Official Notice would effectively destroy any incentive on part of the Examiner to use it in the process of establishing a rejection of notoriously well known facts (*In re Boon*, 169 USP 231 (CCPA 1971). Therefore, the use of Official Notice is proper and fully supported by the indicated evidence and is maintained. Furthermore, the Examiner has given specific examples in support of the Official Notices to the Applicant, and to the extent that the Applicant has raised any arguments about the examples, they have been addressed by the Examiner in the body of the Office Action.

44. Applicants additional remarks are addressed to new limitations in the claims and have been addressed in the rejection necessitated by the amendments.

**Conclusion**

45. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

**Point of Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Namrata (Pinky) Boveja whose telephone number is 571-272-8105. The examiner can normally be reached on Mon-Fri, 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The **Central FAX** phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

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/N. B./

Examiner, Art Unit 3622

/Yehdega Retta/

Primary Examiner, Art Unit 3622